

**GOVERNMENT OF PUERTO RICO  
PUERTO RICO PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

**IN RE:** ACCELERATED EVALUATION OF RENEWABLE ENERGY AND ENERGY STORAGE PROJECT PROPOSALS TO SECURE FEDERAL INVESTMENT TAX CREDITS (ITCs)

**CASE NO.:** NEPR-MI-2025-0005

**SUBJECT:** Procedural Clarification

**RESOLUTION AND ORDER**

**A. Pertinent Background**

By Resolution and Order dated December 30, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") approved certain projects resulting from the accelerated procurement process conducted pursuant to Executive Order OE-2025-047 and the Energy Bureau's Resolution and Order dated September 26, 2025 (the "December 30 Resolution"). In that Resolution, the Energy Bureau also ordered the Puerto Rico Electric Power Authority ("PREPA") to continue negotiations with the respective proponents for the execution of the corresponding contracts. In the December 30 Resolution, the Energy Bureau reserved the right, through the end of February 2026, to revisit the procurement process and authorize additional projects not selected therein, including projects submitted by proponents whose other projects were selected, as well as projects submitted by proponents for whom no projects were selected, provided that the applicable conditions and economic terms are the same or more favorable.

Thereafter, following several procedural filings, on January 16, 2026, the Energy Bureau issued a Resolution and Order that, among others, established February 15, 2026, as the deadline for completing contract negotiations and ordered PREPA to submit updated status reports on the contract negotiations every five (5) days thereafter until the conclusion of the negotiation process ("January 16 Resolution").

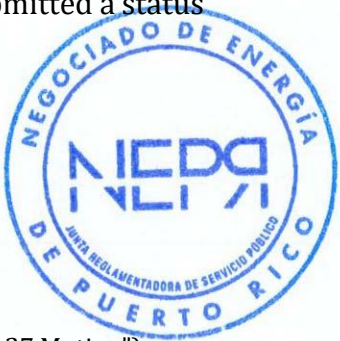
**B. Proponent A January 27 Motion**

On January 27, 2026, the Energy Bureau received a motion submitted by one of the proponents, herein identified as Proponent A, in which Proponent A represents that it has encountered difficulties during the negotiation process ordered by the Energy Bureau with PREPA.<sup>1</sup> The Energy Bureau further notes that Proponent A has expressed that confusion exists regarding the nature of the projects submitted and subsequently approved by the Energy Bureau. Specifically, Proponent A asserts that it submitted a co-located solar photovoltaic ("Solar PV") projects combined with Battery Energy Storage Systems ("BESS"), while PREPA has initiated negotiations only with respect to the BESS components of such projects. Proponent A also requests that the Energy Bureau assume a more direct role in the continuation of such negotiations.

For its part, PREPA, through filing submitted to the Energy Bureau on January 26, 2026, informed that it continues the negotiation process and remains committed to complying with the Energy Bureau's directives to submitted negotiated contracts on or before February 15, 2026. Additionally, in compliance with the January 16 Resolution, PREPA submitted a status report on February 2, 2026, regarding the ongoing negotiations.

**C.**

<sup>1</sup> See *Urgent Motion for Relief and Notice* filed by Proponent A on January 27, 2026 ("January 27 Motion").



## Determinations

### 1. *Proponent A*

Without prejudging the merits of the matters raised, the Energy Bureau clarifies that, at the time of approval issued through December 30 Resolution, only the BESS components of the projects proposed by Proponent A were approved, as the prices submitted for the Solar PV components were determined to be higher than what was considered reasonable. However, considering the co-located nature of the projects submitted by Proponent A, the Energy Bureau finds it appropriate to revisit this matter within the scope of its previously reserved evaluation authority. Accordingly, the Energy Bureau hereby **ORDERS** that, as part of the ongoing negotiation process, PREPA shall notify Proponent A that it shall have a period of three (3) days to submit, for PREPA's consideration, improved pricing offers with respect to the Solar PV components of the proposed projects. Upon submission of such offers, Proponent A shall continue negotiations with PREPA in order to determine whether more reasonable pricing may be achieved, not only for the Solar PV projects but also for the BESS components.

For the avoidance of doubt, the Energy Bureau clarifies that the authorization provided herein for Proponent A to submit additional better pricing offers shall not be construed as modifying or reconsidering the Energy Bureau's prior determination, nor shall it be interpreted as an approval of the Solar PV components of the proposed projects. The Energy Bureau reiterates that, pursuant to its December 30 Resolution, only the BESS components were approved at that time. The submission and evaluation of additional pricing offers is intended solely to allow the Energy Bureau and PREPA to assess whether revised pricing and terms may warrant further consideration of the Solar PV components. Any determination regarding the approval of such Solar PV projects shall be made only after evaluation of the revised proposals and the prices submitted in connection therewith.

### 2. *Proponents whose projects were not selected in the December 30 Resolution*

With respect to the remaining proponents whose projects were not selected as part of the December 30 Resolution, PREPA is hereby ordered to notify such proponents that they shall have a period of three (3) days to submit, for PREPA's consideration, final improved pricing offers with respect to the projects they previously proposed.

The Energy Bureau further notes that the opportunity afforded to all proponents to submit improved pricing conditions is intended to promote, to the greatest extent possible, competitive outcomes and to preserve fair and competitive conditions among all participants that submitted proposals as part of the procurement process. However, apart from pricing considerations, and consistent with the exceptions and determinations established in the December 30 Resolution regarding certain aspects of the procurement process (e.g., Proposal Security, certifications of no conflict), PREPA shall remain responsible, at this stage, for determining which proponents, notwithstanding the submission of competitive pricing, may not proceed to contract negotiations due to non-compliance with other applicable requirements of the competitive process to which they were subject.

### 3. *Contract Negotiations with Selected Proponents*

With respect to contract negotiations, the Energy Bureau further **ORDERS** that selected proponents, for each contractual modification they propose, shall prepare a detailed written explanation describing the rationale for the requested modification and the benefits that, in their view, would result from the inclusion of such modification. Said explanation shall be sufficiently detailed to allow PREPA to evaluate the proposed changes and make an informed determination regarding the same. Following the submission of such proposals by the parties, PREPA shall express its position in writing with respect to the requested modifications. Thereafter, the parties shall hold an initial meeting to discuss the proposed modifications and seek to resolve any outstanding issues through good-faith negotiations.



For those proposed modifications that PREPA finally determines should not be accepted, whether in their proposed form or through an alternative modification, PREPA shall communicate in writing to the proponent the reasons supporting such determination. The Energy Bureau further recognizes that, as part of the negotiation of contractual provisions, the pricing proposed and negotiated by the parties may be affected by, and remain subject to, the final allocation of risks, obligations, and commercial terms reflected in the contractual clauses under negotiation. Accordingly, the requirement that proponents initially submit improved pricing offers shall not be construed as limiting the parties' ability to further refine or modify pricing as part of the ongoing negotiation of contractual terms. The Energy Bureau acknowledges that additional adjustments to pricing may reasonably result from the final language and structure of the negotiated provisions, where such adjustments are consistent with the public interest and contribute to reaching mutually acceptable agreements in the execution of the final contracts.


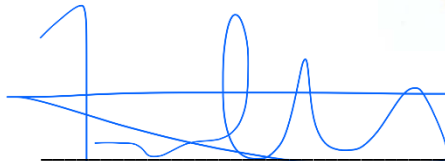
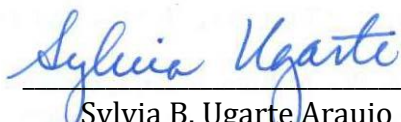
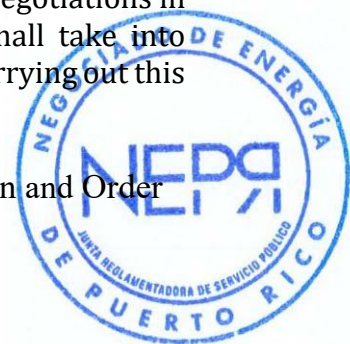
#### D. Conclusion

The purpose of this process is to facilitate agreements that promote the public interest and enable the timely execution of these contracts, one of whose principal objectives is to allow Puerto Rico to benefit from available Investment Tax Credits ("ITCs"). ITCs are federal tax incentives established under United States law for qualifying renewable energy and energy storage projects and are intended to reduce overall project costs, ultimately benefiting ratepayers. The Energy Bureau recognizes that the accelerated nature of this procurement and negotiation process is, in part, intended to ensure that the projects may qualify for such incentives, which are subject to forthcoming eligibility deadlines. Accordingly, the timely completion of these negotiations is necessary to maximize the opportunity to capture these benefits, which may translate into more favorable rates for ratepayers in Puerto Rico. Therefore, the Energy Bureau encourages the parties to engage in good-faith negotiations regarding the proposed contractual modifications, as well as any reasonable alternatives that PREPA may determine to be consistent with the public interest.

Considering the January 16 Resolution, the Energy Bureau expects the contracts to be submitted on or before February 15, 2026, unless the parties jointly determine that additional time is necessary and submit a joint request to the Energy Bureau seeking an extension of such term. The Energy Bureau notes that this process was, from its inception, contemplated as one of limited duration and is not intended to be extended beyond what is reasonably necessary to complete the negotiations and secure the ITCs. The Energy Bureau further recognizes that proponents pursuing eligibility for ITCs are aware of the timelines applicable to their respective projects and are therefore expected to conduct negotiations in a manner consistent with such timelines. At the same time, the parties shall take into consideration the limited resources available to PREPA, as a public entity, in carrying out this process, and shall act diligently to avoid unnecessary delays.

The Energy Bureau **WARNS** PREPA that failure to comply with this Resolution and Order will result in the imposition of fines under Section 6.36 of Act 572014.<sup>2</sup>

Be it notified and published.

  
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Edison Avilés Deliz  
Chairman  
\_\_\_\_\_  
Ferdinand Ramos Soegaard  
Associate Commissioner  
\_\_\_\_\_  
Sylvia B. Ugarte Araujo  
Associate Commissioner  
\_\_\_\_\_  
Antonio Torres Miranda  
Associate Commissioner

<sup>2</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").

## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 6, 2026. Associate Commissioner Lillian Mateo Santos did not intervene. I also certify that on February 6, 2026. I have proceeded with the filing of the Resolution and Order and a copy of this Resolution and Order was notified by electronic mail to alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net.

For the record, I sign this in San Juan, Puerto Rico, today February 6, 2026.



  
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Sonia Seda Gaztambide  
Clerk